UNITED STATES PATENT and TRADEMARK OFFICE

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In re Application of	: DECISION ON
DOLBEC et al	:
Application No.: 10/522,201	:
PCT No.: PCT/CA2003/00111	:
Int. Filing Date: 23 July 2003	: PETITION UNDER
Priority Date: 24 July 2002	:
Attorney's Docket No.: 23710	:
For: AUTOMATIC DETECTION AND RESOLUTION	:
OF FIBER CABLING ERRORS IN OPTICAL	:
NETWORKS	: 37 CFR 1.10(c)

This decision is in response to applicants' "REQUEST FOR CORRECTION," which is being treated as a petition under 37 CFR 1.10(c) filed on 10 April 2006, requesting that the receipt date of 21 January 2005 be changed to 24 January 2005 for the national stage submission for the above identified application. No fee is required for this petition.

BACKGROUND

On 24 January 2005, petitioner purportedly filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed oath or declaration was filed at such time. The USPTO, however, accorded a receipt date of 21 January 2005 for those papers.

On 06 April 2005, applicants filed the present petition stating that the application was in fact deposited with the USPS on 24 January 2005 as evidenced by the Express Mail Delivery Confirmation and Proof of Mailing filed with the petition. The Track & Confirm documentation for "Express Mail" Label no. EV325935271US indicates that a package was delivered to the USPTO on January 25, 2005.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing

date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied item (1) under 37 CFR 1.10(c) but not items (2)-(3).

With respect to item (2), a review of the application papers appear to reveal that the "Express Mail" Label No. EV 325935271US was not placed on the "Transmittal Letter" or any other paper prior to the original mailing by "Express Mail."

With respect to item (3), no copy of the customer receipt of "Express Mail" Label No. EV 325935271US has been filed with the present petition.

Accordingly, the requirements under 37 CFR 1.10(c) have not been satisfied. Therefore, it would not be appropriate to grant the petition under 37 CFR 1.10(c) at this time indicating that the National Stage papers were received on 24 January 2005.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(c)." No additional petition fee is required.

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